



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

November 18, 1992

Mr. Edgar O. Coble  
McLean & Sanders  
100 Main Place  
Fort Worth, Texas 76102-3090

OR92-653

Dear Mr. Coble:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 16908.

The Springtown Independent School District ("the district") received an open records request for a "prepared statement" that the school board president read during an open session of the school board on July 21, 1992. You characterize the statement as a "brief personal address" that was not made a part of the minutes of the meeting or other school records. You argue that the statement is not subject to the Open Records Act. Although you sought an open records decision from this office with regard to this request, you did not provide this office with a copy of the statement at issue other than a tape recording of the statement as it was read at the school board meeting. The individual requesting the statement has confirmed with this office that he seeks a written copy of the school board president's statement.

The Open Records Act imposes a duty on governmental bodies seeking an open records decision pursuant to section 7(a) to submit that request to the attorney general within 10 days to the governmental body's receipt of the request for information. The time limitation found in section 7 is an express legislative recognition of the importance of having public information produced in a timely fashion. *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.--Austin 1990, no writ). When a request for an open records decision is not made within the time prescribed by section 7(a), a heightened presumption of openness arises which can only be overcome by a compelling demonstration that the information should not be made public. *Id.*

We realize that the short time frame prescribed by section 7(a) may occasionally impose a substantial burden on governmental bodies seeking to comply with the act. Accordingly, when we receive an otherwise timely request for an open records decision that lacks some information necessary for us to make a determination, it has been our policy to give the governmental body an opportunity to complete the request. On August 26, 1992, we asked you for a copy of the statement that the school board president delivered during the school board meeting and an explanation as to the circumstances surrounding the school board president's actions. To date we have not received your reply other than to receive the tape recording of the statement. The requestor of the information at issue has, however, provided this office with a newspaper article from *The Springtown Epigraph* that not only describes the school board president's statement but quotes it in large part. We have also reviewed the tape recording of the statement which you have provided to this office. The statement addressed, *inter alia*, the district's grievance and child abuse policies. Contrary to your assertions, it is clear from the quoted text of the statement that large portions, if not all, of the statement were meant to represent the views of the board as a whole and not merely the personal views of the school board president. You have further advised this office that you, as attorney for the school district, assisted in drafting the statement.

Information is not exempt from the provisions of the Open Records Act merely because it is not maintained by the district in its administrative offices and is not under the control of the district's custodian of public records. Open Records Decision No. 425 (1985) *reversed on other grounds* by Open Records Decision No. 439 (1986). *See also* Open Records Decision Nos. 585 (1991); 332 (1982). Section 3(a) of the act defines "public information" as

[a]ll information collected, assembled, or maintained by or for governmental bodies, except in those situations where the governmental body does not have either a right of access to or ownership of the information, pursuant to law or ordinance or in connection with the transaction of official business, with the following exceptions only . . . .

The information at issue was clearly created by the school board president in her official capacity "in connection with transaction of official business." Further, you state that the school board president is "in possession and control of" the statement. We therefore conclude that the school district possesses the statement through its school board president, thus making the statement subject to the Open Records Act.

See Open Records Decision No. 425. None of the act's exceptions to disclosure apply to the statement; in fact, the written statement was read at a public meeting. The district must therefore release the statement to the requestor.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR92-653.

Yours very truly,

A handwritten signature in cursive script, reading "Mary R. Crouter".

Mary R. Crouter  
Assistant Attorney General  
Opinion Committee

MRC/RWP/lmm

Ref.: ID# 16908  
ID# 17170  
ID# 17767

cc: Mr. Jerry Holzer  
P. O. Box 801  
Springtown, Texas 76082